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EXAMINER

DICUS, TAMRA

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,207

Applicant(s)

LOEZ, BRUNO

Examiner

Tamra L. Dicus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Acknowledgement is made of the election of Group I, claims 1-10, 19-21. Applicant's election with traverse of Group II, claims 11-18 in Paper No. 10 is acknowledged as being canceled.

Claim Objections

Claim 3 is objected to because of the following informalities: "TPO-type" appears to be misspelled. It appears it should be TPE. Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 9, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 6,300,413 to Simon.

3. Lesca teaches a nonwoven fabric (textile backing meeting claims 1 and 9) having a polyolefin film over it. See abstract, page 2, lines 1-13, and Examples 1 and 2. The film is comprised of a copolymer of ethylene with propylene between 3 and 87% (meeting the polyolefin weight % of 15 to 25 % as instant claim 4, including polypropylene homopolymer 5

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to 8 parts as instant claim 6) and a diene may also be included (PD matrix) (patented claim 1), meeting instant claim 3.

4. While Lesca does not teach a Shore hardness value of 30-50 as in instant claim 2, such property is inherently present since the same materials are used. Lesca does not provide a printed pattern on the coating film. Simon teaches, an analogous art, printed patterns on a coating of polyolefins, namely polyethylene, over a nonwoven polyester knit at col. 2, lines 47-48, and col. 3, lines 55-62. It would have been obvious to one of ordinary skill in the art to modify the fabric of Lesca to include printed patterns on polyolefin coating since Simon teaches doing so provides applicability to a shirt as explained in Example 3.

5. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 6,300,413 to Simon and further in view of USPN 6,268,438 to Ellul et al.

6. Lesca is relied upon above. Lesca does not teach metallocene in the PD matrix. Ellul provides a thermoplastic elastomeric composition that includes metallocene, producing an EPDM-type elastomer (meeting instant claim 1) at col. 2, lines 10-15. Further teaching adding such metallocene provides a lower cost, increased crystallinity at col. 3, lines 14-30, lines 50-55, and col. 4, lines 8-10. Therefore, it would have been obvious to one of ordinary skill in the art to include metallocene in order to lower costs as taught by Ellul as cited above.

7. Lesca, as above. Lesca, does not teach the elastomer weight percentages as in instant claims 5 and 6. Ellul teaches ethylene from 10 to 40% by weight are excellent elastomers for use in dynamically vulcanized alloys at col. 3, lines 14-25, meeting the metallocene very low density polyethylene range of applicant from 10 to 30 weight %. Hence, it would have been obvious to

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one of ordinary skill in the art to include metallocene from 10 to 30 wt. % to Lesca's fabric because Ellul teaches 10 to 40% by weight is conventional as cited above.

8. Lesca does not include paraffin oil of claim 6, thereby meeting the weight percent range between 0 to 15 parts.

9. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 6,300,413 to Simon and further in view of USPN 5,824,415 to Kanki et al.

Lesca is relied upon above. Lesca does not teach a primer printed layer over the coating (claim 7). Lesca does not teach a varnish over the print according to instant claim 8. Kanki teaches a decorative material where a primer layer may be provided to improve the adhesion between layers. The primer layer may be formed of the same resin as used in the formation of the adhesive layer. For example, varnishes, such as polyester/isocyanate, polyether/isocyanate, acrylic resin, polyurethane, cellulose derivatives, and polyisocyanate, may be used alone or as a mixture of two or more. Further in Example 1 teaching a pattern layer was gravure-printed using a two-component curable polyurethane ink embossed on a copolymer sheet. A chlorinated polypropylene resin liquid was then coated on the pattern layer to form a primer layer. See col. 6, lines 44-68. It would have been obvious to one of ordinary skill in the art to include a printed primer to the fabric of Lesca because Kanki teaches doing so improves the adhesion as cited above. It would have been obvious to one of ordinary skill in the art to include varnish because Kanki teaches it is conventional to include at col. 6, lines 44-68 to improve adhesion.

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10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 6,300,413 to Simon and further in view of USPN 3,891,487 to Hoey.

11. Lesca is relied upon above. Lesca does not teach a foam backing. However, Hoey teaches a decorative laminate having a foam latex (foam rubber) under a textile fabric and a printed film on top. See col. 1, lines 5-10, lines 55-60, and col. 5, lines 7-30. It would have been obvious to modify the fabric of Lesca to further included a foamed rubber backing since Hoey teaches doing so provides lightweight properties and rigidity to the composite as cited above.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 6,300,413 to Simon as applied above, and further in view of USPN 6,103,345 to Oshima et al.

13. Lesca is relied upon above. Lesca does not teach the nonwoven fabric used as a tablecloth. However, Oshima teaches a decorative sheet S3 has been applied to a tablecloth, the decorative sheet is at a low cost and excellent in design and decorativeness with sufficient practical strength. Oshima further teaches a tablecloth or the like, has a nonwoven fabric stuck on either one of the front and rear surfaces of the decorative sheet. See col. 5, lines 30-35. Therefore, it would have been obvious to one having ordinary skill in the art to include printed tablecloths to Lesca's fabric since Oshima teaches it is a suitable use for a nonwoven fabric providing practical strength as taught by Oshima at col. 5, lines 30-35.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 6,300,413 to Simon as applied above, and further in view of USPN 6,237,294 to Rygiel.

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15. Lesca, as above, essentially teaches the claimed invention. Lesca does not teach the fabric including printed wall textiles. However, Rygeil teaches decorative three-dimensional panels having printed patterns explaining lower costs may be achieved by including wallpapers based upon woven fabrics, and nonwoven fabrics, as predecorated plywood products and wood paneling. See col. 1, 23-30. It would have been obvious to one of ordinary skill in the art to include a printed wall textile to the fabric of Lesca for the purpose of providing a lower cost decorated panel.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- USPN 6,541,123 to Taniguchi et al. teaches a polyolefin film for stretch packaging including paraffin oil from 0.1 to 12 parts by weight.
- USPN 6,541,138 to Bullock et al. teaches treated textile fabric.
- USPN 5,639,530 to Miron et al. teaches retroreflective articles having elastomeric adhesive layers.
- USPN 5,910,358 to Thoen et al. teaches foamed flooring and wall coverings.
- USPN 6,268,438 to Ellul et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is (703) 305-3809. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8329 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Tamra L. Dicus
Examiner
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CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

September 8, 2003

